



J. Craig Whitley
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:)
)
FITNESS MANAGEMENT GROUP, INC.,) Case No. 09-31863
) (Chapter 11)
)
Debtor.)

ORDER GRANTING MOTION OF RBR PROPERTIES, INC. TO ALLOW AND COMPEL
IMMEDIATE PAYMENT OF POST-PETITION RENTS

This matter came on for hearing before the Court on March 23, 2010, on the Motion of RBR Properties, Inc., Richard Henry Blood, Jr. and Bonita H. Blood (“RBR”) to Allow and Compel Immediate Payment of Post-Petition Rents. Based on the matters of record and with the consent of the parties, the Court finds as follows:

FINDINGS OF FACT

1. RBR is the landlord under a commercial real estate sublease (the Lease), dated January 17, 2001, between RBR and Summit Fitness Lake Norman, LLC (“Summit”) for the rental of commercial space located at Norman Crossing Shopping Center in Cornelius, North Carolina (the “Space”). Summit’s rights were assigned pre-petition to Peak Fitness LN2, LLC,

an entity merged to create Fitness Management Group, Inc. (the “Debtor”). The Debtor succeeded to all of Summit’s rights and liabilities pursuant to the Leases. A copy of the Lease and the assignment documents were attached to the Motion as Exhibit A.

2. Debtor filed its petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code on July 10, 2009. Wayne Sigmon has been appointed Chapter 11 Trustee (the “Trustee”).

3. Since the bankruptcy filing, RBR has received only two post-petition payments from the Debtor: \$18,126.67 received on or about August 24, 2009, and \$18,126.67, received on or about September 18, 2009.

4. The Debtors’ plan was confirmed at a hearing held on December 30, 2009, and a Final Order Confirming Debtor’s Amended Plan of Liquidation was entered on March 16, 2010.

5. Although the Debtors’ Amended Plan provided for the rejection of the RBR Lease, the Debtor and Fuzion Investment Capital, LLC (“Fuzion”), the purchaser of the Debtor’s assets, continued to operate in the Space up to and including February 15, 2010. Under these circumstances, the Court finds that the Lease was rejected on February 15, 2010.

6. The total amount of post-petition rent due RBR through February 15, 2010, is \$110,276.98.

WHEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that RBR is entitled to and is granted an allowed administrative expense claim in this case pursuant to Bankruptcy Code §§ 365(d)(3) and 503(b) in the amount of \$110,276.98 (the “Administrative Expense Claim Amount”). Pursuant to paragraph 9 of this Court’s Final Order Confirming Debtor’s Amended Plan of Liquidation, Fuzion shall pay the Administrative Expense Claim Amount to RBR within 10 (ten) days of the entry of this Order. The funds should be made

payable to RBR Properties, Inc. and forwarded to RBR's counsel. The Trustee and RBR reserve all of their rights in the event that Fuzion fails to pay RBR the Administrative Expense Claim Amount.

This Order has been signed electronically. The judge's signature and court's seal appear at the top of the Order.

United States Bankruptcy Court